

EXHIBIT 3

[Filed Under Seal]

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHASOM BROWN, WILLIAM BYATT,) Case No.
JEREMY DAVIS, CHRISTOPHER) 5:20-cv-03664-LHK-
CASTILLO, and MONIQUE TRUJILLO) SVK
individually and on behalf of)
all other similarly situated,)
Plaintiffs,)
vs.)
GOOGLE LLC,)
Defendant.)
_____)

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VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED

DEPOSITION OF ON AMIR, PH.D.

Tuesday, August 16, 2022

Remotely Testifying from La Jolla, California

Stenographically Reported By:

Hanna Kim, CLR, CSR No. 13083

Job No. 5344524

PAGES 1 - 310

Page 1

CONFIDENTIAL

<p>1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 4 CHASOM BROWN, WILLIAM BYATT,) Case No. 5 JEREMY DAVIS, CHRISTOPHER) 5:20-cv-03664-LHK- 6 CASTILLO, and MONIQUE TRUJILLO) SVK 7 individually and on behalf of) 8 all other similarly situated,) 9 Plaintiffs,) 10 vs.) 11 GOOGLE LLC,) 12 Defendant.) 13 _____) 14 15 16 Confidential, virtual videoconference 17 video-recorded deposition of ON AMIR, 18 PH.D., remotely testifying from La Jolla, 19 California, taken pursuant to the 20 stipulations of counsel thereof, on 21 Tuesday, August 16, 2022, before Hanna 22 Kim, CLR, Certified Shorthand Reporter, 23 No. 13083. 24 25</p>	<p>1 REMOTE APPEARANCES OF COUNSEL: (CONTINUED) 2 3 For Defendant: 4 QUINN EMANUEL URQUHART & SULLIVAN, LLP 5 BY: ALYSSA "ALY" OLSON, ESQ. 6 865 S. Figueroa Street, 10th Floor 7 Los Angeles, California 90017 8 213.443.3000 9 alyolson@quinnemanuel.com 10 11 For Plaintiffs: (Calhoun vs. Google) 12 SIMMONS HANLY CONROY 13 BY: AN TRUONG, ESQ, 14 112 Madison Avenue, 7th Floor 15 New York, New York 10016-7416 16 212.257.8482 17 atruong@simmonsfirm.com 18 19 20 Also Present: 21 MARK KEEGAN, for Plaintiffs 22 Haimin Zhang, Analysis Group 23 SEAN GRANT, Videographer 24 25</p>
<p>1 REMOTE VIDEOCONFERENCE APPEARANCES OF COUNSEL: 2 3 For Plaintiffs: 4 BOIES SCHILLER FLEXNER LLP 5 BY: BEKO O REBLITZ-RICHARDSON, ESQ 6 BY: MARK C MAO, ESQ 7 BY: ALISON ANDERSON, ESQ 8 100 SE 2nd St , 28th Floor 9 Miami, Florida 33131 10 305 539 8400 11 brichardson@bsflp.com 12 -and- 13 MORGAN & MORGAN LAW FIRM 14 BY: MICHAEL RAM, ESQ 15 711 Van Ness Avenue, Suite 500 16 San Francisco, California 94102-3275 17 415 358 6913 18 mram@forthepeople.com 19 20 21 22 23 24 25</p>	<p>1 INDEX OF EXAMINATION 2 3 WITNESS: ON AMIR, PH.D. 4 EXAMINATION PAGE 5 BY MR. REBLITZ-RICHARDSON: 10, 303 6 BY MS. OLSON: 296 7 8 9 QUESTIONS INSTRUCTED NOT TO ANSWER: 10 PAGE.....LINE 11 56.....13 12 --o0o-- 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 2	Page 4
Page 3	Page 5

CONFIDENTIAL

1	INDEX OF EXHIBITS		1	Remotely Testifying from La Jolla, California	
2			2	Tuesday, August 16, 2022; 8:05 a m., PDT	
3	AMIR DEPOSITION EXHIBITS	PAGE	3	--o0o--	
4	Exhibit 1 "Expert Report of Professor On	15	4	THE VIDEOGRAPHER: Good morning. We're on	
5	Amir," April 15, 2022; 311 pages		5	the record. The time is 8:05 a m., and the date is	08:05:33
6	Exhibit 2 "Rebuttal Report of Professor On	15	6	August 16th, 2022.	
7	Amir," May 20, 2022; 76 pages		7	Please note that this deposition is being	
8	Exhibit 3 "Supplemental Report of	15	8	conducted virtually.	
9	Professor On Amir," June 30,		9	Audio recording depends on the quality of	
10	2022; 53 pages		10	camera and internet connection of participants.	08:05:45
11	Exhibit 4 "Google Brand Studio, Today's	179	11	What is seen from the witness and heard on screen is	
12	User on Privacy, Ads, and		12	what will be recorded.	
13	Consent"; Bates nos.		13	Audio and video recording will continue to	
14	GOOG-CABR-00422093 through		14	take place unless all parties agree to go off the	
15	'422182		15	record.	08:06:00
16	Exhibit 5 "Brand Studio, Incognito in the	198	16	This is Media Unit Number 1 of the	
17	context of our brand,		17	video-recorded deposition of Dr. On Amir.	
18	go/sinastro-brand-research		18	This deposition is being taken on behalf	
19	2019"; Bates nos.		19	of counsel for Plaintiffs in the matter of Chasom	
20	GOOG-BRWN-00156752 through '824		20	Brown, et al., versus Google LLC, filed in the	08:06:10
21	Exhibit 6 "Brand Studio, Incognito Icon	206	21	United States District Court, Northern District of	
22	Redesign April 18, 2019"; Bates		22	California. Case Number: 5:20-cv-03664-YGR-SVK.	
23	nos. GOOG-BRWN-00028191 through		23	And is being conducted remotely using	
24	'28375		24	virtual technology.	
25			25	My name is Sean Grant from the firm	08:06:29
		Page 6			Page 8
1	INDEX OF EXHIBITS (CONTINUED)		1	Veritext. I'm the videographer.	
2			2	And the court reporter is Hanna Kim, also	
3	AMIR DEPOSITION EXHIBITS	PAGE	3	from Veritext.	
4	Exhibit 7 "Expert Report of Bruce A.	216	4	I am not related to any party, nor am I	
5	Strombom, May 27, 2022; 183		5	financially interested in the outcome.	08:06:42
6	pages		6	If there are any objections to proceeding,	
7	Exhibit 8 Order Denying Motion to Dismiss;	221	7	please state them at the time of your appearance.	
8	41 pages		8	Counsel and all present, including	
9	Exhibit 9 E-mail from Steve Hamilton,	240	9	remotely, will now state their appearances and	
10	1/27/2021; Bates nos.		10	affiliations for the recording, beginning with the	08:06:52
11	GOOG-BRWN-00406075 through		11	noticing attorney.	
12	'406076		12	MR. REBLITZ-RICHARDSON: Good morning.	
13	Exhibit 10 "Incognito mode Awareness and	265	13	Beko Reblitz-Richardson of Boies Schiller Flexner on	
14	Landscape"; Bates nos.		14	behalf of the Plaintiffs.	
15	GOOG-BRWN-00477546 through		15	With me are Mark Mao and Alison Anderson,	08:07:10
16	'477604		16	also of Boies Schiller Flexner; Michael Ram from the	
17	Exhibit 11 "Incognito Mode UXR Review";	289	17	Morgan & Morgan Law Firm; and also Mark Keegan, an	
18	Bates nos. GOOG-BRWN-00042388		18	expert retained by the Plaintiffs in this matter.	
19	through '42418		19	MS. OLSON: Aly Olson from Quinn Emanuel	
20	--o0o--		20	on behalf of Google and the witness.	08:07:19
21			21	And with me is Haimin Zhang, who is a	
22			22	consulting expert from Analysis Group.	
23			23	THE VIDEOGRAPHER: Ms. Troung.	
24			24	MS. TROUNG: An Troung, Simmons Hanly	
25			25	Conroy, appearing pursuant to court order for the	08:07:31
		Page 7			Page 9

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<p>1 Calhoun Plaintiffs in the related case.</p> <p>2 THE VIDEOGRAPHER: Thank you.</p> <p>3 Will the certified court reporter please</p> <p>4 swear in the witness.</p> <p>5</p> <p>6 ON AMIR, PH.D.,</p> <p>7 having been duly administered an oath over</p> <p>8 videoconference as stipulated by all counsel, was</p> <p>9 examined and testified as follows:</p> <p>10 THE VIDEOGRAPHER: Counsel.</p> <p>11</p> <p>12 EXAMINATION</p> <p>13 BY MR. REBLITZ-RICHARDSON:</p> <p>14 Q. Good morning, Professor.</p> <p>15 A. Good morning. 08:08:04</p> <p>16 Q. Please state your full name.</p> <p>17 A. On Amir.</p> <p>18 Q. Do you understand that you are under oath?</p> <p>19 A. I do.</p> <p>20 Q. If there is -- is there any reason you 08:08:12</p> <p>21 cannot testify truthfully today?</p> <p>22 A. No.</p> <p>23 Q. If my question is unclear, would you</p> <p>24 please let me know.</p> <p>25 A. Certainly will. 08:08:24</p> <p style="text-align: right;">Page 10</p>	<p>1 deposition?</p> <p>2 A. I tried to have a good breakfast.</p> <p>3 Q. Anything else?</p> <p>4 A. No.</p> <p>5 Q. In total, how much time did you spend 08:09:39</p> <p>6 preparing for this deposition?</p> <p>7 A. Probably eight to ten hours.</p> <p>8 Q. And you said you reviewed not only your</p> <p>9 three reports, but some additional documents.</p> <p>10 Do you recall that? 08:10:00</p> <p>11 A. I did.</p> <p>12 Q. And -- and were the -- those the documents</p> <p>13 cited in your reports?</p> <p>14 A. Yes, they are.</p> <p>15 Q. Did you review any documents not cited in 08:10:09</p> <p>16 your reports in preparation for your deposition</p> <p>17 today?</p> <p>18 A. I don't think so.</p> <p>19 Q. Who hired you?</p> <p>20 A. The counsel firm that Aly represents. 08:10:22</p> <p>21 Q. And when were you hired?</p> <p>22 A. I'm not sure, to be honest. I don't</p> <p>23 remember the date.</p> <p>24 Q. Approximately?</p> <p>25 A. I honestly don't remember. 08:10:48</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. Is Google's counsel representing you for</p> <p>2 this deposition?</p> <p>3 A. Yes, she is.</p> <p>4 Q. And where are you right now for this</p> <p>5 deposition? 08:08:34</p> <p>6 A. I'm in my office at UC San Diego.</p> <p>7 Q. Do you have anyone in the room there with</p> <p>8 you?</p> <p>9 A. I do not.</p> <p>10 Q. Do you have any documents with you for the 08:08:43</p> <p>11 deposition?</p> <p>12 A. I do not.</p> <p>13 Q. What, if anything, did you do to prepare</p> <p>14 for today's deposition?</p> <p>15 A. I reread my three reports and many of the 08:08:54</p> <p>16 related documents that I used to formulate these</p> <p>17 reports.</p> <p>18 I met with my support team at Analysis</p> <p>19 Group to go over the data and analysis and met with</p> <p>20 counsel to discuss this -- 08:09:19</p> <p>21 MS. OLSON: Dr. Amir, I just -- you don't</p> <p>22 need to say what you discussed with counsel.</p> <p>23 THE WITNESS: Thank you.</p> <p>24 BY MR. REBLITZ-RICHARDSON:</p> <p>25 Q. Anything else to prepare for today's 08:09:31</p> <p style="text-align: right;">Page 11</p>	<p>1 Q. Was it this year?</p> <p>2 A. I don't want to give you the wrong answer.</p> <p>3 I don't remember.</p> <p>4 Q. It was before you submitted your first</p> <p>5 report; correct? 08:11:09</p> <p>6 A. It was obviously before -- way before I</p> <p>7 submitted my first report. It was way before I</p> <p>8 conducted the affirmative studies. I just don't</p> <p>9 remember the dates.</p> <p>10 Q. Okay. And what were you hired to do? 08:11:21</p> <p>11 A. As stated in my report, I was hired to</p> <p>12 offer an opinion on specific questions raised.</p> <p>13 Q. And those specific questions are detailed</p> <p>14 in your reports; right?</p> <p>15 A. Yes, they are detailed in my report. 08:11:41</p> <p>16 Q. And who first contacted you about being an</p> <p>17 expert in this matter?</p> <p>18 A. It was someone from Aly's firm through</p> <p>19 Analysis Group that contacted me.</p> <p>20 Q. Do you know the person's name? 08:12:03</p> <p>21 A. I don't remember. It's been a while.</p> <p>22 Q. Who explained your assignment to you?</p> <p>23 A. As usually in these matters, I had the</p> <p>24 first meeting with attorneys, and they raised the</p> <p>25 question. I judged that it's a question that I can 08:12:20</p> <p style="text-align: right;">Page 13</p>

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<p>1 collecting information?</p> <p>2 A. Well, there is information collected</p> <p>3 during the session that I -- that I use, that is</p> <p>4 then removed when I close the browser at the end of</p> <p>5 the session. 08:48:05</p> <p>6 And there's information being collected or</p> <p>7 received -- sorry -- there's -- the information, I</p> <p>8 don't know where they -- whether they collect it or</p> <p>9 not. But it's information received by various</p> <p>10 third-party entities when I log in to different 08:48:19</p> <p>11 websites.</p> <p>12 Q. I'm going to make sure I understand. So</p> <p>13 it's your testimony that when you're in incognito</p> <p>14 mode, Google collects certain information during</p> <p>15 that browsing that is then removed; is that correct? 08:48:34</p> <p>16 A. No, that's not what I said.</p> <p>17 MS. OLSON: Sorry. I meant to -- I</p> <p>18 accidentally was on mute, but I meant to interpose</p> <p>19 an objection.</p> <p>20 BY MR. REBLITZ-RICHARDSON: 08:48:47</p> <p>21 Q. Okay. Can you explain to me again what</p> <p>22 you understand to happen when you're in incognito</p> <p>23 mode in terms of Google collecting information?</p> <p>24 A. But first, you understand I'm not an</p> <p>25 expert on -- in this case on any computer science. 08:48:57</p> <p style="text-align: right;">Page 42</p>	<p>1 goes and crunches that information and then throws</p> <p>2 away the rest, then it might no be collected.</p> <p>3 So I'll tell you what I think I know, and</p> <p>4 that is that different third parties receive some of</p> <p>5 my browsing information. For example, if I use 08:50:47</p> <p>6 incognito and go to Amazon, Amazon knows I'm there.</p> <p>7 So Amazon knows what I looked at. Or, you know,</p> <p>8 what -- what this user using incognito looked at and</p> <p>9 what this user might have purchased.</p> <p>10 And if I'm not clever enough, and I 08:51:05</p> <p>11 actually, in incognito mode, log in to my Amazon</p> <p>12 account, then Amazon knows exactly who I am, despite</p> <p>13 incognito mode because I -- I just logged into my</p> <p>14 account and told them who I was.</p> <p>15 So, yes, there -- you know, third-party 08:51:24</p> <p>16 members receive information. I also imagine that my</p> <p>17 internet service provider can look at traffic going</p> <p>18 through its servers and -- and -- and -- and see</p> <p>19 information.</p> <p>20 BY MR. REBLITZ-RICHARDSON: 08:51:43</p> <p>21 Q. I just want to make sure I understand.</p> <p>22 You don't know what "collect" means; is that right?</p> <p>23 A. I don't know what you mean when you ask me</p> <p>24 about collect. And I didn't study anything in this</p> <p>25 case about data collection. 08:51:54</p> <p style="text-align: right;">Page 44</p>
<p>1 So I'm providing you my lay understanding as a user;</p> <p>2 right? Is that --</p> <p>3 Q. Okay.</p> <p>4 A. Okay.</p> <p>5 So as a user, I understand that if I use 08:49:11</p> <p>6 incognito mode, then certain types of</p> <p>7 information's -- of information are -- are stored on</p> <p>8 my device only temporarily. And when I close the</p> <p>9 session, those would disappear.</p> <p>10 This is the reason I use incognito mode to 08:49:28</p> <p>11 access my finances on a public computer abroad. I</p> <p>12 did not want anybody to have using that machine</p> <p>13 after me to have traces of my finances.</p> <p>14 And I also understand that when I use the</p> <p>15 internet in general, then third-party -- various 08:49:48</p> <p>16 third-party players receive certain types of</p> <p>17 information from my browsing session.</p> <p>18 Q. And if you know, when you are using</p> <p>19 incognito mode, can you stop Google from collecting</p> <p>20 that private browsing information? 08:50:17</p> <p>21 MS. OLSON: Objection to the form.</p> <p>22 THE WITNESS: I think you're also</p> <p>23 restating my testimony. Let -- let me just be</p> <p>24 clear. I do not know what "collected" means. I</p> <p>25 know that information is received. If an algorithm 08:50:30</p> <p style="text-align: right;">Page 43</p>	<p>1 Q. You didn't study anything in this case</p> <p>2 regarding Google's collection?</p> <p>3 A. "Data collection," I said.</p> <p>4 Q. Did you study anything in this case</p> <p>5 regarding Google's collection? 08:52:04</p> <p>6 A. I don't know what you mean by</p> <p>7 "collection." I -- I -- I said exactly. I said I</p> <p>8 studied what people perceive, what entities receive</p> <p>9 their data. And then I studied what types of data</p> <p>10 users think Google receives. 08:52:20</p> <p>11 And I did not use the term "collect"</p> <p>12 because "collect" is -- is a term that's downstream.</p> <p>13 I focused on what kind of data is received by</p> <p>14 different parties, including Google.</p> <p>15 Q. I -- I need you to under- -- explain to me 08:52:39</p> <p>16 what you understand the difference between collect</p> <p>17 and receive to be.</p> <p>18 A. I -- I tried. I'll try again. If I</p> <p>19 receive information that goes into a realtime</p> <p>20 algorithm, that creates KPIs, key performance 08:52:55</p> <p>21 indicators, and then I throw that data away, then I</p> <p>22 receive data, and I didn't collect it.</p> <p>23 For example, if my algorithm is supposed</p> <p>24 to show you the next ad, so I could have an</p> <p>25 ad-related algorithm that receives information, 08:53:12</p> <p style="text-align: right;">Page 45</p>

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<p>1 process it, and did not save it.</p> <p>2 When I think of data collection, when I</p> <p>3 collect data, I save it. That means I can come back</p> <p>4 to it in the future.</p> <p>5 That's how I interpret your question when 08:53:27</p> <p>6 you -- when you say "collect." I didn't study</p> <p>7 whether information is collected in this particular</p> <p>8 case.</p> <p>9 Q. So, in your opinion, "collect" means save;</p> <p>10 is that correct? 08:53:43</p> <p>11 A. That's how I think about data.</p> <p>12 Q. And "receive" means maybe save, maybe</p> <p>13 don't save; is that correct?</p> <p>14 A. Receive is have access to. What you do</p> <p>15 with it is, you know, kind of different from 08:53:53</p> <p>16 receive.</p> <p>17 Q. So receive has nothing to do with what you</p> <p>18 do with the data; is that correct?</p> <p>19 A. No. I just -- I just explained an example</p> <p>20 that you could do with the data something upon 08:54:05</p> <p>21 receiving, but that doesn't require collecting. So</p> <p>22 nothing is a wrong description of my testimony.</p> <p>23 Q. If someone receives data, are they saving</p> <p>24 that data?</p> <p>25 A. They don't have to. 08:54:23</p> <p style="text-align: right;">Page 46</p>	<p>1 my local machine, which is why I used it when I was</p> <p>2 abroad on a public machine. And that's what was</p> <p>3 important to me as a user.</p> <p>4 BY MR. REBLITZ-RICHARDSON:</p> <p>5 Q. So when you use incognito, and close 08:55:35</p> <p>6 incognito, it's your understanding that the</p> <p>7 information is not stored on your local machine; is</p> <p>8 that right?</p> <p>9 A. That's my understanding.</p> <p>10 Q. What about Google servers, not on your 08:55:48</p> <p>11 local machine, but Google servers?</p> <p>12 A. I don't know. But what -- what's</p> <p>13 important here is what I studied is what -- how</p> <p>14 users and potential users understand this and what</p> <p>15 do they think about it. 08:56:02</p> <p>16 Q. Okay. Do you know someone named Dan</p> <p>17 Ariely?</p> <p>18 A. Yes, I do.</p> <p>19 Q. For a time, was Dr. Ariely your advisor?</p> <p>20 A. He was one of my two advisors. 08:56:18</p> <p>21 Q. Have you coauthored research papers with</p> <p>22 Dr. Ariely?</p> <p>23 A. I think it's obvious from my CV that I</p> <p>24 have.</p> <p>25 Q. The answer is "yes"? 08:56:24</p> <p style="text-align: right;">Page 48</p>
<p>1 Q. If someone receives data, are they using</p> <p>2 that data?</p> <p>3 A. They can.</p> <p>4 Q. But they don't have to?</p> <p>5 A. They don't have to. 08:54:28</p> <p>6 Q. If someone collects data, it's your</p> <p>7 opinion that that involves saving data; is that</p> <p>8 right?</p> <p>9 A. I -- that's my interpretation of</p> <p>10 collection. But again, this is my lay 08:54:37</p> <p>11 interpretation of -- you know, of the English</p> <p>12 language. Collecting means storing, and receiving</p> <p>13 does not necessarily mean storing.</p> <p>14 Q. And so, you studied receiving, not</p> <p>15 collecting; is that right? 08:54:54</p> <p>16 A. Yes.</p> <p>17 Q. And if you know, from your experience as a</p> <p>18 user, can you have Google delete all of the</p> <p>19 information that Google received from your private</p> <p>20 browsing? 08:55:08</p> <p>21 MS. OLSON: Objection to the form.</p> <p>22 THE WITNESS: Yeah, I'm not sure I</p> <p>23 understand that. As I said, I think that when I use</p> <p>24 private browsing using Chrome, the information of my</p> <p>25 session, when I close the browser, is not stored on 08:55:19</p> <p style="text-align: right;">Page 47</p>	<p>1 A. Yes.</p> <p>2 Q. Yes, you have coauthored research papers</p> <p>3 with Dr. Ariely?</p> <p>4 A. Yes.</p> <p>5 Q. How many papers have you coauthored with 08:56:31</p> <p>6 Dr. Ariely?</p> <p>7 A. Five or six, maybe. I can count, if you</p> <p>8 want.</p> <p>9 Q. In 2008, did you publish an article</p> <p>10 coauthored with Dr. Ariely titled "The Dishonesty of 08:56:43</p> <p>11 Honest People: A Theory of Self-Concept</p> <p>12 Maintenance"?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Was that your first home run paper?</p> <p>15 A. Define "home run paper." 08:56:54</p> <p>16 Q. Have you written that that was your first</p> <p>17 home run paper?</p> <p>18 A. I may have at some interview with a</p> <p>19 reporter.</p> <p>20 Q. Was it a home run paper for you? 08:57:04</p> <p>21 A. I think it still is a home run paper.</p> <p>22 Q. Among of all of your published articles,</p> <p>23 is that your favorite article?</p> <p>24 A. It's one of my favorite articles.</p> <p>25 Q. It's not your favorite. It's just one of 08:57:18</p> <p style="text-align: right;">Page 49</p>

CONFIDENTIAL

<p>1 answered.</p> <p>2 THE WITNESS: -- I'm responding -- yeah.</p> <p>3 I'm responding to your question about Mr. Keegan's</p> <p>4 questions actually asked.</p> <p>5 BY MR. REBLITZ-RICHARDSON: 02:15:13</p> <p>6 Q. Okay. The questions actually asked, do</p> <p>7 you dispute that they concerned private browsing?</p> <p>8 MS. OLSON: Objection. Asked and</p> <p>9 answered.</p> <p>10 THE WITNESS: What I dispute is -- so -- 02:15:24</p> <p>11 so what I dispute is that responders understand what</p> <p>12 the questions mean.</p> <p>13 BY MR. REBLITZ-RICHARDSON:</p> <p>14 Q. I'm not asking that question. Just asking</p> <p>15 you whether you dispute that the questions concerned 02:15:38</p> <p>16 private browsing.</p> <p>17 A. No.</p> <p>18 Q. You don't dispute that?</p> <p>19 A. If you want me to -- you know -- do -- do</p> <p>20 I think they're related to private browsing? I'm 02:15:49</p> <p>21 answering that question. I think they are related</p> <p>22 to private browsing.</p> <p>23 Q. Thank you.</p> <p>24 What additional questions relating to</p> <p>25 private browsing do you think Mr. Keegan could have 02:16:00</p> <p style="text-align: right;">Page 254</p>	<p>1 original thousand and four or whatever responders,</p> <p>2 you will find that on average, people get it right</p> <p>3 about 50 percent of the time, close to 50 percent,</p> <p>4 which is consistent with my affirmative study.</p> <p>5 That's exactly the point. 02:17:27</p> <p>6 BY MR. REBLITZ-RICHARDSON:</p> <p>7 Q. Are you done?</p> <p>8 A. I hope so.</p> <p>9 Q. I read your report to suggest that by</p> <p>10 adding more questions, Mr. Keegan would get a higher 02:17:35</p> <p>11 percentage.</p> <p>12 Was that wrong?</p> <p>13 A. Sorry.</p> <p>14 You read -- so you read my report. Not</p> <p>15 completely correctly. 02:17:44</p> <p>16 Q. What --</p> <p>17 A. What I said was, in this methodology, one</p> <p>18 could add questions to get a higher response, which</p> <p>19 is what Keegan did. Not could do; did. He added</p> <p>20 more questions until he got a higher number because 02:17:57</p> <p>21 it's purely additive.</p> <p>22 Q. And the questions he added concerned</p> <p>23 non-Google websites, logged-out activity, and the</p> <p>24 specific data that Google collects; fair?</p> <p>25 MS. OLSON: Objection to the form. 02:18:11</p> <p style="text-align: right;">Page 256</p>
<p>1 added to his survey?</p> <p>2 A. I'm sorry. Are you asking me to design</p> <p>3 Mr. Keegan's flawed survey for him?</p> <p>4 Q. You are criticizing Mr. Keegan on the</p> <p>5 basis that he could find a large proposition 02:16:17</p> <p>6 [verbatim] simply by adding more questions. And I'm</p> <p>7 asking what questions related to private browsing</p> <p>8 could he add?</p> <p>9 A. And --</p> <p>10 MS. OLSON: Objection to the form. 02:16:29</p> <p>11 THE WITNESS: My point is he already has.</p> <p>12 Look at his study. That's what he did. I'm -- I'm</p> <p>13 not saying that he should have. I'm saying he</p> <p>14 already did. He asked more questions than --</p> <p>15 than -- than -- than you -- than you have to in 02:16:41</p> <p>16 order to understand this issue until the point he</p> <p>17 got to a very high number. Because of the structure</p> <p>18 and the logic of his design, any additional question</p> <p>19 you ask, by definition, because it is additive, is</p> <p>20 going to get you a higher number. By definition. 02:16:56</p> <p>21 If you take -- let me finish.</p> <p>22 If you take the average number of -- of</p> <p>23 correct responses, quote/unquote, for each question</p> <p>24 as judged by the actual people responding to it, not</p> <p>25 the numbers Keegan com- -- computed based on the 02:17:10</p> <p style="text-align: right;">Page 255</p>	<p>1 BY MR. REBLITZ-RICHARDSON:</p> <p>2 Q. I mean, you're familiar with the questions</p> <p>3 he asked; right?</p> <p>4 A. Yes.</p> <p>5 Q. We already established they deal with 02:18:25</p> <p>6 private browsing; right?</p> <p>7 A. Well, so --</p> <p>8 Q. Let's just look at them. You have a chart</p> <p>9 in your report; right?</p> <p>10 A. Yeah. Let's look at them. 02:18:32</p> <p>11 Q. Page 12. All right.</p> <p>12 All right.</p> <p>13 What's Figure 1, on page 12?</p> <p>14 A. Sorry?</p> <p>15 Q. What's Figure 1 on page 12 of your 02:18:44</p> <p>16 supplemental report?</p> <p>17 A. Figure 1 seems to be the flowchart through</p> <p>18 Keegan's study.</p> <p>19 Q. Did you prepare this?</p> <p>20 A. I prepared this. 02:18:56</p> <p>21 Q. Seems to be or it is?</p> <p>22 A. Is.</p> <p>23 Q. Okay. So this is the flowchart through</p> <p>24 Mr. Seegan -- Mr. Keegan's rebuttal survey; right?</p> <p>25 A. Well, the -- the -- the main question 02:19:08</p> <p style="text-align: right;">Page 257</p>

CONFIDENTIAL

<p>1 parts.</p> <p>2 Q. Right.</p> <p>3 A. Yes.</p> <p>4 Q. And so, you see there in Question 16,</p> <p>5 Mr. Keegan asked about consent; right? 02:19:14</p> <p>6 A. Yes -- Question 16. Well, you jumped one.</p> <p>7 Consent. He asked about consent.</p> <p>8 Q. And then with Question 17, you see --</p> <p>9 A. Wait, wait, wait. Stop.</p> <p>10 My point is it's not clear -- I don't 02:19:32</p> <p>11 understand what consent means. Why would responders</p> <p>12 understand what consent means?</p> <p>13 Q. Did you test whether people understand</p> <p>14 what consent means?</p> <p>15 A. No, because it's a legal question. It's 02:19:44</p> <p>16 not -- it has nothing to do with actual perceptions.</p> <p>17 Q. Did you ask any questions regarding</p> <p>18 consent?</p> <p>19 A. No. Exactly for that point.</p> <p>20 Q. And then Question 17, Mr. Keegan asked 02:19:55</p> <p>21 about people visiting non-Google websites; right?</p> <p>22 MS. OLSON: Objection to the form.</p> <p>23 THE WITNESS: Question 17, he says, "Which</p> <p>24 of the following best reflects your opinion? I</p> <p>25 believe that when I am in private browsing mode, I 02:20:13</p> <p style="text-align: right;">Page 258</p>	<p>1 Q. So that's a Google website and then down</p> <p>2 below, there's a non-Google website; right?</p> <p>3 A. That's right.</p> <p>4 Q. And so, this is the survey design here in</p> <p>5 terms of distinguishing between whether it's a 02:21:21</p> <p>6 Google website or a non-Google website; right?</p> <p>7 MS. OLSON: Objection to the form.</p> <p>8 THE WITNESS: But based on the survey</p> <p>9 design, only for a very small sample of the original</p> <p>10 sample. 02:21:33</p> <p>11 BY MR. REBLITZ-RICHARDSON:</p> <p>12 Q. Right.</p> <p>13 A. But he dropped most of the people by now.</p> <p>14 Q. And did any of your survey questions asked</p> <p>15 about -- ask about visiting a non-Google website? 02:21:40</p> <p>16 A. I think we established that. I don't</p> <p>17 explicitly ask for either Google or non-Google. I</p> <p>18 ask for websites.</p> <p>19 Q. Right. And if you go to Question 18,</p> <p>20 there's a question that elicits information as to 02:21:52</p> <p>21 whether or not the respondent has a Google account;</p> <p>22 right?</p> <p>23 A. That's right.</p> <p>24 Q. And none of your survey questions asked</p> <p>25 about whether respondents had a Google account; 02:22:03</p> <p style="text-align: right;">Page 260</p>
<p>1 have given con-" -- sorry. Question 17. Which</p> <p>2 question did you say?</p> <p>3 BY MR. REBLITZ-RICHARDSON:</p> <p>4 Q. The next one, Question 17.</p> <p>5 A. Q17, "Which of the following best reflects 02:20:26</p> <p>6 your opinion? I believe when I'm in private</p> <p>7 browsing mode, I've given consent to Google." We</p> <p>8 talked about that. That's not Question 17.</p> <p>9 Q. Do you see right below that --</p> <p>10 A. Oh -- 02:20:41</p> <p>11 (Interruption in audio/video.)</p> <p>12 THE COURT REPORTER: Could you, please,</p> <p>13 repeat what you said. Do you see right below that?</p> <p>14 BY MR. REBLITZ-RICHARDSON:</p> <p>15 Q. Do you see right below that, where it 02:20:46</p> <p>16 states, "when I am visiting a non-Google website"?</p> <p>17 A. Yeah, but that's about consent again;</p> <p>18 right?</p> <p>19 Q. Consent with respect to whether or not</p> <p>20 you're visiting a non-Google website; right? 02:20:58</p> <p>21 A. Yes.</p> <p>22 Q. That's what Question 17 asks about, and if</p> <p>23 it says -- do you see that? The, like, red box off</p> <p>24 to the left?</p> <p>25 A. Yep. 02:21:13</p> <p style="text-align: right;">Page 259</p>	<p>1 right?</p> <p>2 A. That's right.</p> <p>3 Q. And then if you go to Question 19,</p> <p>4 Mr. Keegan sought information regarding browsing</p> <p>5 while signed out of any Google account; right? 02:22:08</p> <p>6 A. That's right. But do you know how many</p> <p>7 people responded to this question?</p> <p>8 Q. Again, none of your survey questions asked</p> <p>9 about browsing while signed out of any Google</p> <p>10 account; correct? 02:22:27</p> <p>11 A. That's not the --</p> <p>12 MS. OLSON: Objection to the form.</p> <p>13 THE WITNESS: That's not the -- the</p> <p>14 original question is that -- the sample size for the</p> <p>15 people who responded to this in Keegan's report is 02:22:32</p> <p>16 so small as to be reliable.</p> <p>17 BY MR. REBLITZ-RICHARDSON:</p> <p>18 Q. I'm not asking about sample size. I'm</p> <p>19 asking whether you asked any questions of any of</p> <p>20 your respondents concerning signed out private 02:22:39</p> <p>21 browsing?</p> <p>22 A. I did not --</p> <p>23 MS. OLSON: Objection. Asked and</p> <p>24 answered.</p> <p>25 (Interruption in audio/video.) 02:22:54</p> <p style="text-align: right;">Page 261</p>

CONFIDENTIAL

<p>1 THE COURT REPORTER: Excuse me. I'm 2 getting the objection -- I'm get- -- I'm not getting 3 the objection because of the speaking over, so could 4 you please repeat. 5 MS. OLSON: Yeah, just give me a little 02:22:58 6 bit more of a beat. Thank you. 7 I said, objection. Asked and answered. 8 BY MR. REBLITZ-RICHARDSON: 9 Q. Can you go, please, to page 19, paragraph 10 31. 02:23:08 11 A. Yes. 12 Q. Is one of your criticisms that Mr. Keegan 13 carried forward respondents who answered "don't 14 know" or "don't know, no opinion" in the main 15 questions? 02:23:31 16 A. My criticism is -- is a bit more elaborate 17 on that. But it's in part based on this logic, yes, 18 that if you pass people who have no idea, they never 19 drop, and you're left with most -- more people who 20 have no clue throughout the survey. 02:23:53 21 And I think I have an exhibit that said -- 22 that shows exactly the proportion of that is -- is 23 growing. So the very small sample that -- that 24 Keegan carries over is -- is -- becomes 25 predominantly occupied by people who don't know or 02:24:08 Page 262</p>	<p>1 Q. Well, let's look at one. 2 MS. OLSON: Before we do that, it's been 3 about another hour. Could we take a quick break if 4 you're transitioning with exhibits? 5 MR. REBLITZ-RICHARDSON: Okay. 02:25:38 6 THE VIDEOGRAPHER: Are we off the record? 7 Are we going off the record? 8 MR. REBLITZ-RICHARDSON: Yes, please. 9 THE VIDEOGRAPHER: Going off the record, 10 the time is 2:25 p.m. 02:25:48 11 (Short recess taken.) 12 THE VIDEOGRAPHER: Back on the record, the 13 time is 2:34 p.m. 14 BY MR. REBLITZ-RICHARDSON: 15 Q. Professor Amir, welcome back. 02:34:46 16 A. Thank you. 17 Q. Can we go to paragraph 36 of your 18 supplemental report, which is on page 24. 19 A. Give me a second. 20 36, I'm there. 02:35:12 21 Q. Would you, please, read aloud the second 22 sentence in that paragraph. 23 A. You're talking about the "one study"? 24 Q. Correct. 25 A. [REDACTED] 02:35:35 Page 264</p>
<p>1 have no opinion, meaning they don't care. 2 Q. Do you know what happens to Mr. Keegan's 3 survey results for his rebuttal survey, if you 4 remove the don't knows or don't know, no opinion? 5 A. Well, I think you can do the math. If you 02:24:31 6 look at Table 2, what happens is, he very quickly 7 gets to a non-reliable sample. So calling that out 8 as results would be unprofessional. 9 Q. You reviewed Mr. Keegan's rebuttal report; 10 right? 02:24:54 11 A. I have. 12 Q. And do you recall that he had a section of 13 his report where he evaluated Google internal 14 documents? 15 A. Maybe. It's been a while. 02:25:06 16 Q. Do you recall that he had an exhibit that 17 included a summary of 40 Google internal documents? 18 A. I don't remember. 19 Q. Did you at least review those 40 20 documents? 02:25:16 21 A. I don't know if I reviewed all 40 22 documents. No. 23 Q. Do you know if you reviewed any of them? 24 A. I don't remember. If you want to put them 25 in front, I can take a look, but I don't remember. 02:25:26 Page 263</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] [As read]. 5 Q. Did you write that sentence? 02:35:55 6 A. Yes. 7 Q. Is that an accurate statement? 8 A. I hope so. It's from a document I cite. 9 It's page 7554. 10 Q. Did you review that document? 02:36:05 11 A. Yes, otherwise, I wouldn't cite it. 12 Q. Okay. Let's -- let's bring up that 13 document. This is GOOG-BRWN-00477546, which is 14 being marked as Exhibit 10. And that's Tab 13, for 15 Miguel. 02:36:32 16 (Amir Deposition Exhibit 10 was marked 17 electronically.) 18 A. Got it. 19 BY MR. REBLITZ-RICHARDSON: 20 Q. All right. 02:36:44 21 Is this Exhibit 10 the document cited in 22 Footnote 34 of your report? 23 A. '77546, hold on. 24 I need to switch between things. Sorry. 25 Q. No problem. 02:37:07 Page 265</p>

CONFIDENTIAL

<p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 I, Hanna Kim, a Certified Shorthand</p> <p>4 Reporter, do hereby certify:</p> <p>5 That prior to being examined, the witness</p> <p>6 in the foregoing proceedings was by me duly sworn to</p> <p>7 testify to the truth, the whole truth, and nothing</p> <p>8 but the truth;</p> <p>9 That said proceedings were taken before me</p> <p>10 at the time and place therein set forth remotely and</p> <p>11 were taken down by me in shorthand and thereafter</p> <p>12 transcribed into typewriting under my direction and</p> <p>supervision;</p> <p>13 I further certify that I am neither</p> <p>14 counsel for, nor related to, any party to said</p> <p>15 proceedings, not in anywise interested in the</p> <p>16 outcome thereof.</p> <p>17 Further, that if the foregoing pertains to</p> <p>18 the original transcript of a deposition in a federal</p> <p>19 case, proceedings, review</p> <p>20 of th not requested.</p> <p>21 e hereunto</p> <p>22 subsc lay of August, 2022.</p> <p>23</p> <p>24</p> <p>25 Hanna Kim, CLK, CSR No. 13083</p> <p>Page 306</p>	<p>1 xx Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked .PDF</p> <p>2 Transcript - The witness should review the transcript and</p> <p>3 make any necessary corrections on the errata pages included</p> <p>4 below, notating the page and line number of the corrections.</p> <p>5 The witness should then sign and date the errata and penalty</p> <p>6 of perjury pages and return the completed pages to all</p> <p>7 appearing counsel within the period of time determined at</p> <p>8 the deposition or provided by the Federal Rules.</p> <p>9 __ Federal R&S Not Requested - Reading & Signature was not</p> <p>10 requested before the completion of the deposition.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Page 308</p>
<p>1 ALYSSA "ALY" OLSON, ESQ.</p> <p>2 alyolson@quinnemanuel.com</p> <p>3 August 19, 2022</p> <p>4 RE: BROWN vs. GOOGLE LLC</p> <p>5 AUGUST 16, 2022, ON AMIR, PH.D., JOB NO. 5344524</p> <p>6 The above-referenced transcript has been</p> <p>7 completed by Veritext Legal Solutions and</p> <p>8 review of the transcript is being handled as follows:</p> <p>9 __ Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext</p> <p>10 to schedule a time to review the original transcript at</p> <p>11 a Veritext office.</p> <p>12 __ Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF</p> <p>13 Transcript - The witness should review the transcript and</p> <p>14 make any necessary corrections on the errata pages included</p> <p>15 below, notating the page and line number of the corrections.</p> <p>16 The witness should then sign and date the errata and penalty</p> <p>17 of perjury pages and return the completed pages to all</p> <p>18 appearing counsel within the period of time determined at</p> <p>19 the deposition or provided by the Code of Civil Procedure.</p> <p>20 __ Waiving the CA Code of Civil Procedure per Stipulation of</p> <p>21 Counsel - Original transcript to be released for signature</p> <p>22 as determined at the deposition.</p> <p>23 __ Signature Waived – Reading & Signature was waived at the</p> <p>24 time of the deposition.</p> <p>25</p> <p>Page 307</p>	<p>1 JURAT</p> <p>2</p> <p>3 I, ON AMIR, PH.D., do hereby certify under</p> <p>4 penalty of perjury that I have read the foregoing</p> <p>5 transcript of my deposition taken remotely on</p> <p>6 Tuesday, August 16, 2022; that I have made such</p> <p>7 corrections as appear noted herein in ink, initialed</p> <p>8 by me; that my testimony as contained herein, as</p> <p>9 corrected, is true and correct.</p> <p>10</p> <p>11 Dated this ____ day of _____, 2022,</p> <p>12 at _____.</p> <p>13</p> <p>14</p> <p>15</p> <p>16 _____</p> <p>17 ON AMIR, PH.D.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Page 309</p>